



January 30, 2002

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## HOUSE BILL No. 1114

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DIGEST OF HB 1114 (Updated January 28, 2002 8:30 PM - DI 47)

**Citations Affected:** IC 15-9; noncode.

**Synopsis:** Regulation of pet stores. Provides for the licensure and regulation of pet stores by the state board of animal health.

**Effective:** July 1, 2002.

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### Cheney, Duncan

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January 8, 2002, read first time and referred to Committee on Agriculture, Natural Resources and Rural Development.  
January 29, 2002, amended, reported — Do Pass.

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HB 1114—LS 6445/DI 104+



January 30, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1114

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A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 15-9 IS ADDED TO THE INDIANA CODE AS A  
2       **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3       2002]:

### 4       **ARTICLE 9. PET STORE REGULATION**

#### 5       **Chapter 1. Definitions**

6       **Sec. 1. The definitions in this chapter apply throughout this**  
7       **article.**

8       **Sec. 2. "Animal distributor" means a person who buys and sells**  
9       **animals at wholesale but does not sell animals as pets directly to**  
10       **individual consumers.**

11       **Sec. 3. "Board" refers to the Indiana state board of animal**  
12       **health established by IC 15-2.1-3-1.**

13       **Sec. 4. (a) "Pet store" means a place where:**

14               (1) a dog;

15               (2) a cat;

16               (3) a rabbit;

17               (4) a rodent;

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1 (5) a nonhuman primate;  
 2 (6) a bird;  
 3 (7) any other vertebrate animal; or  
 4 (8) any other animal customarily obtained as a pet in Indiana;  
 5 is bought, sold, offered for sale, exchanged, or offered for adoption.

6 (b) The term does not include the following:

7 (1) A store that sells or exchanges less than six (6) animals  
 8 during a twelve (12) month period.

9 (2) A person that sells only the animals that the person has  
 10 produced and raised.

11 (3) A veterinary hospital or clinic operated by a veterinarian  
 12 licensed under IC 15-5-1.1.

13 (4) An animal shelter.

14 (5) A place where the sale of livestock (as defined in  
 15 IC 15-2.1-2-27) is conducted.

16 (6) A place where the sale of poultry by a commercial breeder  
 17 or distributor is conducted.

18 (7) A place where fish are the only animals sold.

19 (8) A place where the sale of an animal is conducted by:

20 (A) an animal distributor;

21 (B) a research facility;

22 (C) a circus; or

23 (D) a publicly or privately owned zoological park, petting  
 24 zoo, or other facility;

25 that is licensed or registered by the United States Department  
 26 of Agriculture under the federal Animal Welfare Act of 1970,  
 27 7 U.S.C. 2131, et seq., as amended.

28 (c) A person does not come within the definition set forth in  
 29 subsection (a) by taking any action with respect to an animal that  
 30 is authorized by a license or permit issued to the person by the  
 31 department of natural resources.

## 32 Chapter 2. Duties of the Board

33 Sec. 1. The board has the powers necessary to fulfill its duties as  
 34 prescribed in this article and may adopt rules under IC 4-22-2 that  
 35 prescribe standards for pet stores that when met satisfy  
 36 IC 15-9-5-1 and that are necessary to carry out this article.

## 37 Sec. 2. The board may do the following:

38 (1) Administer and enforce this article.

39 (2) Issue, suspend, and revoke licenses under this article.

40 (3) Subject to IC 15-9-3, investigate complaints concerning  
 41 licensees or persons the board has reason to believe should be  
 42 licensees, including complaints regarding the failure to



comply with this article or the rules, and to take appropriate action under IC 15-9-8.

(4) Bring actions in the name of the state of Indiana in an appropriate court to enforce compliance with this article or the rules by restraining order or injunction.

(5) Hold public hearings under IC 15-2.1-19 on any matters for which a hearing is required under this article.

(6) Establish and fix the fees for the licensing and renewal of a license under this article.

(7) Prescribe the application forms to be furnished to all persons seeking to be licensed under this article.

(8) Prescribe the form and design of the license to be issued under this article.

(9) Conduct hearings and keep records of proceedings.

(10) Subpoena and bring before the board any person in Indiana and take testimony in the same manner as prescribed by law in civil proceedings in Indiana courts.

(11) Hire the staff necessary to carry out this article.

### **Chapter 3. General Provisions Concerning Licensing; Licensing Fund**

**Sec. 1.** A person may not operate a pet store unless the person has a license to operate a pet store under this article.

**Sec. 2. (a)** A person who wishes to obtain a license issued under this article must complete a license application prescribed by the board and file the application with the board.

**(b)** An application for a license under this article must be completed in the manner prescribed by the board.

**Sec. 3.** The board may not issue a license to operate a pet store until the board has inspected the premises for compliance under this article.

**Sec. 4. (a)** A license issued under this article expires two (2) years after the date of issuance or on a common biennial renewal date for all licenses that is established by the board.

**(b)** The fee for a license issued under this article is two hundred dollars (\$200). However, the fee for a license issued in the second year of a licensing cycle is one hundred dollars (\$100).

**(c)** The board shall accept the following forms of payment of fees:

**(1)** Cash.

**(2)** A draft.

**(3)** A money order.

**(4)** A cashier's check.



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(5) A certified or other personal check.

(d) If a board receives an uncertified personal check for the payment of a fee and if the check does not clear the bank, the board may void the license for which the check was received.

(e) Unless designated by rule, a fee is not refundable.

Sec. 5. (a) The pet store licensing fund is established to implement this article. The fund shall be administered by the board.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) The fund consists of license fees and civil penalties collected under this article.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The money in the fund is annually appropriated to the board for its use in carrying out this article.

Sec. 6. (a) The board or its employees may inspect any pet store and may enter upon any public or private property where any pet store is located during the store's regular business hours for the following purposes:

(1) Inspecting the property.

(2) Examining the animals.

(3) Conducting tests in regard to the presence of an infectious, a contagious, or a communicable disease of the animals and the possible cause and sources of any disease.

(4) Performing any other function authorized by this article.

(b) A conservation officer of the department of natural resources may inspect any pet store and may enter upon any public or private property where any pet store is located during the store's regular business hours for the following purposes:

(1) Inspecting the property.

(2) Examining the animals.

Sec. 7. The board shall investigate any:

(1) pet store;

(2) entity that the board considers may be operating as a pet store without a license;

(3) applicant for a license under this article; or

(4) licensee;

upon a written verified complaint by any person of a violation

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under this article that the board considers to have merit.

Sec. 8. (a) The board may order a licensee under this article to file with the board information concerning the business conduct of the licensee and the practices and management of the business of the licensee.

(b) The board may require that the reports and answers under subsection (a) be made under oath and filed within a reasonable period if the requirements are considered essential by the board.

#### Chapter 4. Renewal of a License

Sec. 1. (a) A person may renew a license by:

(1) completing a renewal application prescribed by the board; and

(2) paying a renewal fee;

not later than the expiration date of the license.

(b) If a person fails to timely submit a renewal application and pay a renewal fee, the board shall send the person notification of the delinquent application and fee. If the board does not receive the renewal application and fee within fifteen (15) days after the date notice was mailed to the person, the person's license becomes invalid without any further action by the board.

Sec. 2. (a) The board may renew a license if the license holder pays the renewal fee set by the board to renew the license before the license expires.

(b) Notwithstanding subsection (a), the board may refuse to renew the license for reasons set forth in IC 15-9-6.

#### Chapter 5. Conduct of a Pet Store Operator

Sec. 1. The board shall adopt standards that require a pet store operator to do the following:

(1) Maintain sanitary conditions of the premises.

(2) Insure proper ventilation of the premises.

(3) Provide adequate nutrition for all animals under the pet store operator's control.

(4) Provide humane care and treatment of all animals under the pet store operator's control.

(5) Take reasonable care to prevent disease in animals that are released for sale, trade, or adoption.

(6) Establish a relationship with at least one (1) veterinarian to provide routine veterinary care and advice concerning the animals under the control of the pet store operator.

Sec. 2. A person who operates a pet store may not import or cause to be imported into Indiana, or offer for sale or resale, a dog or cat less than eight (8) weeks of age.



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1       **Sec. 3. (a) A pet store operator shall provide to the purchaser**  
 2 **the following information for every dog or cat available for sale,**  
 3 **resale, trade, or adoption:**

4       **(1) The age and sex of the animal.**

5       **(2) The breed of the animal.**

6       **(3) A record of vaccination and veterinary care and**  
 7 **treatment.**

8       **(4) A record of surgical sterilization or lack of surgical**  
 9 **sterilization.**

10       **(b) A pet store operation shall keep records of the information**  
 11 **required in subsection (a) and a record of the source of each**  
 12 **animal that is purchased and sold for at least two (2) years after**  
 13 **the date the animal is sold.**

14       **(c) The pet store operator shall allow the board access to the**  
 15 **information described in subsection (b) upon request during**  
 16 **normal business hours.**

17       **Sec. 4. A person who holds a license issued under this article**  
 18 **shall display the license in a place clearly visible to any customer.**

19       **Chapter 6. Denial, Suspension, or Revocation of a License**

20       **Sec. 1. The board may refuse to issue or renew, suspend, or**  
 21 **revoke a license for the following reasons:**

22       **(1) A material misstatement in the application for an original**  
 23 **or renewal license under this article.**

24       **(2) A violation of this article or any rule adopted under this**  
 25 **article.**

26       **(3) Aiding or abetting another person in the violation of this**  
 27 **article or any rule adopted under this article.**

28       **(4) Making a substantial misrepresentation or false promise**  
 29 **of a nature likely to influence, persuade, or induce in**  
 30 **connection with the business of a licensee under this article.**

31       **(5) A conviction of a misdemeanor or felony under IC 35-46-3.**

32       **Sec. 2. (a) Upon revocation of a license, the licensee shall**  
 33 **surrender the license to the board.**

34       **(b) If the licensee fails to surrender the license under subsection**  
 35 **(a), the board shall seize, or cause to be seized, the license.**

36       **Sec. 3. (a) The board may:**

37       **(1) deny an application for a license or renewal of a license;**

38       **(2) suspend a license;**

39       **(3) revoke a license; or**

40       **(4) impose a civil penalty under IC 15-9-8-3;**

41 **by issuing a written notice to the applicant or licensee, stating the**  
 42 **alleged violation, the board's action, and the opportunity for a**



1 hearing under IC 4-21.5.

2 (b) If the applicant or licensee does not request in writing a  
3 hearing before the board within fifteen (15) days after receiving  
4 notice under subsection (a), the right to a hearing before the board  
5 is waived, and the notice becomes a final order under IC 4-21.5.

6 (c) If a hearing is requested under this section, the hearing shall  
7 be held under IC 4-21.5.

8 Sec. 4. The board may reinstate a license that has been  
9 suspended under this chapter if the licensee demonstrates to the  
10 board that the licensee is able to operate with reasonable skill,  
11 safety, and competency to the public. As a condition of  
12 reinstatement, the board may impose disciplinary or corrective  
13 measures designed to ensure compliance with this article.

14 Chapter 7. Operating a Pet Store Without a License

15 Sec. 1. (a) If the board determines that a person who is not  
16 licensed or exempt under this article is engaged in activities that  
17 require a license, the board may issue a cease and desist order and  
18 impose a civil penalty under IC 15-9-8-3 by issuing a written notice  
19 to the alleged violator, stating the alleged violation, the board's  
20 action, and the opportunity for a hearing under IC 4-21.5.

21 (b) If the alleged violator does not request in writing a hearing  
22 before the board within fifteen (15) days after receiving the notice,  
23 the right to a hearing before the board is waived, and the notice  
24 becomes a final order under IC 4-21.5.

25 (c) If a hearing is requested under this section, the hearing shall  
26 be conducted under IC 4-21.5.

27 (d) The:

28 (1) attorney general;

29 (2) board; or

30 (3) prosecuting attorney of any county where a violation  
31 under this chapter occurs;

32 may file an action in the name of the state for an injunction or  
33 other order to enforce the board's order and this article.

34 (e) A cease and desist order issued under this section is  
35 enforceable in the circuit courts.

36 Chapter 8. Enforcement

37 Sec. 1. The board is responsible for the administration and  
38 enforcement of this article. The board may delegate its duties to the  
39 state veterinarian, except as provided in IC 15-2.1-3-13.5.

40 Sec. 2. IC 15-2.1-20-1 and IC 15-2.1-20-2 apply to this article.

41 Sec. 3. (a) If a person violates this article or any rule adopted by  
42 the board under this article, the board may do any of the following:

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(1) Suspend the person's license.

(2) Revoke the person's license.

(3) Prohibit renewal of a license.

(4) Impose a civil penalty of not more than one thousand dollars (\$1,000) for each violation.

(5) Obtain an injunction against a person who is engaging in a method, an act, or a practice that violates this article.

(6) Issue an order of compliance directing the person to take specified actions in order to comply with this article.

(b) The board may order a pet store closed to the public for up to seventy-two (72) hours to correct deficiencies necessary to meet the requirements of this article. If a violation is not corrected, the board may suspend or revoke the operator's license.

Sec. 4. A person who knowingly or intentionally violates this article commits a Class B misdemeanor.

Sec. 5. If the board has reason to believe that a person has violated IC 35-46-3, the board may refer the matter to the appropriate law enforcement agency for action under IC 35-46-3.

Sec. 6. (a) A unit (as defined in IC 36-1-2-23) may adopt an ordinance concerning regulation of pet stores that includes more stringent or detailed requirements than those set forth in this article.

(b) A unit may not enforce an ordinance concerning the regulation of pet stores that contains less stringent or detailed requirements than those set forth in this article.

(c) A unit may not impose or collect a licensing or registration fee for the regulation of pet stores.

SECTION 2. [EFFECTIVE JULY 1, 2002] (a) Notwithstanding IC 15-9-3, as added by this act, the operator of a pet store that is operating before July 1, 2002, may continue to operate the pet store without a license issued under IC 15-9-3, as added by this act, pending the processing of an application for a license under this SECTION.

(b) The operator of a pet store described in subsection (a) may submit to the Indiana state board of animal health an application for a license to operate a pet store under IC 15-9-3, as added by this act. The operator must submit the application before September 1, 2002. The Indiana state board of animal health may allow an operator to submit an application on or after September 1, 2002, for good cause.

(c) The operator of a pet store described in subsection (a) shall cease operating the pet store if:



- 1           **(1) the operator fails to submit an application within the time**
- 2           **set forth in subsection (b); or**
- 3           **(2) the Indiana state board of animal health notifies the**
- 4           **operator that the board has rejected an application submitted**
- 5           **by the operator under this SECTION.**
- 6           **(d) This SECTION expires January 1, 2003.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture, Natural Resources and Rural Development, to which was referred House Bill 1114, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Page 2, between lines 27 and 28, begin a new paragraph and insert:

**"(c) A person does not come within the definition set forth in subsection (a) by taking any action with respect to an animal that is authorized by a license or permit issued to the person by the department of natural resources."**

Page 4, between lines 13 and 14, begin a new paragraph and insert:

**"(f) The money in the fund is annually appropriated to the board for its use in carrying out this article."**

Page 4, line 14, after "6." insert **"(a)"**.

Page 4, between lines 23 and 24, begin a new paragraph and insert:

**"(b) A conservation officer of the department of natural resources may inspect any pet store and may enter upon any public or private property where any pet store is located during the store's regular business hours for the following purposes:**

**(1) Inspecting the property.**

**(2) Examining the animals."**

and when so amended that said bill do pass.

(Reference is to HB 1114 as introduced.)

LYTLE, Chair

Committee Vote: yeas 11, nays 0.

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